



**U.S. Department of Justice**

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Via ECF

Honorable Edward G. Smith  
Judge, United States District Court  
The Holmes Building, 4<sup>th</sup> floor  
101 Larry Holmes Drive  
Easton, PA 18042

Re: United States v. Joan Abreu-Feliz, Cr. No. 15-211-1

Dear Judge Smith:

Defendant Joan Abreu-Feliz filed his first motion for compassionate release on June 3, 2020 (docket no. 226), and the government responded on June 15, 2020 (docket no. 229). The Court denied the motion on June 30, 2020, after holding a hearing.

Abreu-Feliz next filed a motion for compassionate release on January 5, 2021 (docket no. 234), to which the government responded on January 12, 2021 (docket no. 237). The government's position was and remains that although Abreu-Feliz presents risk factors identified by the CDC as posing a risk of severe COVID-19 illness, relief should again be denied, as he is a young man of 38 in good health, and has significant time remaining on a sentence for serious criminal conduct.

On February 5, 2021 (docket no. 240), the government filed a supplemental letter, advising that BOP offered the first dose of the Pfizer vaccine to Abreu-Feliz, and he refused it. We explained that, as a result, he no longer presents an extraordinary and compelling reason allowing consideration for compassionate release, as he could exercise self-care against the virus. His medical condition otherwise is routine and does not conceivably support compassionate release apart from the threat of the virus. *See, e.g., United States v. Jackson*, 2021 WL 806366, at \*1-2 (D. Minn. Mar. 3, 2021) ("Jackson's decision to refuse the vaccine flies in the face of any medical recommendation regarding the vaccines. While he is within his rights to refuse any treatment he wishes to forego, he cannot simultaneously claim that he must be released because of the risk of complications while refusing a vaccine that could virtually eliminate that risk."); *United States v.*

*McBride*, 2021 WL 354129, at \*3 (W.D.N.C. Feb. 2, 2021) (relief denied in part because the inmate refused the vaccine; “Defendant’s refusal to take preventative measures undermines his assertion that extraordinary and compelling reasons exist to warrant his release from prison”).

On February 25, 2021 (docket no. 248), newly appointed defense counsel filed a supplemental brief in support of the defendant’s motion. This brief does not present any argument to which the government has not previously responded, except one. Counsel states that Abreu-Feliz did not in fact refuse the vaccine:

Rather, when his counselor and a nurse unexpectedly offered to administer a COVID-19 vaccine, Mr. Abreu-Feliz asked them a question about whether it was safe for him to be vaccinated in light of the blood-thinning medication that he uses to manage his headaches.<sup>45</sup> The counselor offered to have Mr. Abreu-Feliz’s question answered by a doctor before administering the vaccine, and she agreed that someone would return to offer Mr. Abreu-Feliz a shot once he had spoken with a doctor. As of counsel’s last communication with Mr. Abreu-Feliz, no doctor had come to speak with him, and no one had returned to vaccinate him.

Br. 18-19. The footnote cites the medical records attached by counsel, at page 25, listing his medications.

This account is highly dubious. The BOP unit staff signed a statement in the medical record that Abreu-Feliz declined the vaccine. Further, and notably, the defendant in fact is not on a blood thinner medication.

As the medical record referenced by defense counsel shows, Abreu-Feliz has two current medications: ordinary ibuprofen, which is a non-steroidal anti-inflammatory drug (NSAID), for headaches; and fluticasone, which is a corticosteroid nasal spray he takes for allergic rhinitis. Neither is a blood thinner, and neither is contraindicated for the Pfizer vaccine.

In any event, as government officials including the President have recently explained, the aggressive rollout of vaccines is continuing throughout the nation, with the expectation that there will be a sufficient supply for every adult American to receive a vaccine by the end of May. BOP continues to vaccinate its population at as fast a pace as possible. Abreu-Feliz thus will no doubt very soon have the opportunity to again receive the vaccine if he is now inclined to take it. In the meantime, the motion for

compassionate release should be denied for all of the reasons stated in the government's submissions.

Respectfully yours,

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cc (via ECF): James J. McHugh, Jr., Esq.